

1   **Q:    Please state your name.**

2    A:    My name is Douglas Duncan Meredith.

3  
4   **Q:    Are you the same Douglas Meredith that pre-filed Direct Testimony in this**  
5       **proceeding?**

6    A:    Yes.

7  
8   **Q:    What is the purpose of your surrebuttal testimony?**

9    A:    The purpose of my surrebuttal testimony is to respond to certain statements made in the  
10       Rebuttal Testimony of Lawrence J. Krajci filed on September 4, 2003 on behalf of  
11       ALLTEL Communications Inc, (ALLTEL).  Additionally, I respond to the general  
12       proposition advanced by Mr. Krajci in his rebuttal testimony that this Commission has  
13       only a perfunctory opportunity to examine the public interest requirement Congress  
14       placed in section 214(e)(2) of the Communications Act of 1934, as amended (Act).  I  
15       urge the Commission to reject this proposition.  The Commission should closely examine  
16       this petition and establish a robust and meaningful public interest requirement.  
17       Furthermore, unless and until ALLTEL provides factual evidence supporting its petition  
18       for eligible telecommunications carrier (ETC) status, I recommend that the Commission  
19       deny ALLTEL's request for designation as a competitive ETC in South Carolina.

**Q:** On page 2, lines 5-6, Mr. Krajci states that “The criteria to be employed in examining the application have been laid out by the FCC.” Mr. Krajci alleges that ALLTEL satisfies the requirements of the FCC and therefore ALLTEL’s petition should be approved. Do you agree?

**A:** No. Mr. Krajci’s position is inconsistent with the Act, FCC policies and regulations and Federal State Joint Board recommendations regarding ETC designations. As I outlined in my Direct Testimony, the Act requires that state commissions make a public interest determination. At present there are no FCC requirements established for state commissions regarding the public interest requirement. Instead, the FCC leaves it to each state commission to determine its own public interest standard. Mr. Krajci alleges that this Commission does not have any opportunity to establish a South Carolina specific public interest analysis. This is simply not true.

Regarding the public interest standard, the FCC has stated that “We note that state commissions must make a special finding that the designation is in the public interest in order to designate more than one eligible carrier in a rural service area.”<sup>1</sup>

**Q:** Mr. Krajci suggests (page 2, lines 12-14) that the recommendations made by the South Carolina Telephone Coalition are more appropriately raised in another forum. Do you agree?

<sup>1</sup> *In the Matter of Federal-State Joint Board On Universal Service*, 12 FCC Rcd 8776, FCC 97-157, Rel May 8, 1997, REPORT AND ORDER, 190. (Emphasis Supplied)

1 A: No. This is a case of first impression for this Commission. Therefore, the establishment  
 2 of a public interest standard that is faithful to the statute is both necessary and prudent.  
 3 This Commission has the responsibility to examine the public interest. Mr. Krajci  
 4 apparently wants the Commission to give perfunctory approval of the ALLTEL petition  
 5 without assessing the merit of public interest as it applies to South Carolina. I  
 6 recommend that this Commission reject ALLTEL's attempt to have the Commission  
 7 rubber stamp a public interest determination.

8  
 9 **Q: Are there other statements to which you would like to respond?**

10 A: Yes. On page 5, lines 1-11 of his rebuttal testimony, Mr. Krajci suggests that the FCC is  
 11 not considering the public interest analysis for ETCs and that the FCC's review is limited  
 12 to "its current rules and policies on universal service funding." (Page 5, lines 4-5) The  
 13 FCC's review of its policies is more far-reaching than just funding. The FCC also  
 14 directed the Federal-State Joint Board to examine the process of ETC designations:

15 Finally, the Joint Board should address the system for resolving requests  
 16 for ETC designations under section 214(e)(2) of the Act. Some parties  
 17 have argued that shortcomings in the current system hamper the  
 18 emergence of competition in rural areas, whereas others have expressed  
 19 concerns that universal service goals will be undermined if state  
 20 commissions do not impose similar universal service obligations on  
 21 incumbent LECs and competitive ETCs. Taking into consideration these  
 22 concerns, we ask the Joint Board to consider whether it is advisable to  
 23 establish federal processing guidelines for ETC applications, and if so,  
 24 what should be included in such guidelines.<sup>2</sup>  
 25

<sup>2</sup> *In the Matter of Federal-State Joint Board on Universal Service*, 17 FCC Rcd 22642, FCC 02-307, November 8, 2002, ¶ 10 (Footnotes omitted).

In addressing this matter, the Joint Board has issued a notice for comment regarding the public interest determinations at the state commission level and at the FCC level. The Joint Board states that:

In order to receive universal service support, carriers must obtain ETC designation from the relevant state commission, or the Commission in cases where the state commission lacks jurisdiction. Before designating an additional ETC for an area served by a rural telephone company, the state commission or the Commission must find that the designation is in the public interest. We seek comment regarding the system for resolving requests for ETC designations under sections 214(e)(2) and 214 (e)(6) of the Act. Is there a need to clarify the standards for ETC designations under the Act? What factors should the Commission consider when it performs ETC designations pursuant to section 214(c)(6)? In particular, what factors should the Commission consider in determining whether designation of more than one ETC is consistent with the public interest, convenience, and necessity? What additional factors, if any, should be considered when considering whether to designate an ETC in a rural carrier study area?<sup>3</sup>

It is clear from these statements that the FCC is reviewing the public interest criteria that should apply both at the state level and under its own jurisdiction.

Mr. Krajci further states at page 5, lines 7-9 of his rebuttal testimony that “this Commission must apply the existing rules and policy when making its determination in this proceeding.” Mr. Krajci implies that this Commission must follow the FCC’s public interest analysis – which the FCC is currently reviewing – in this proceeding. There is no support for Mr. Krajci’s position, which would restrict this Commission from conducting its own independent public interest analysis. In my Direct Testimony, I referenced two

<sup>3</sup> In the Matter of Federal-State Joint Board on Universal Service Seeks Comment on Certain of the Commission’s Rules Relating to High-Cost Universal Service Support and the ETC Designation Process, FCC 03J-1, February 7, 2003, ¶33 (Emphasis Supplied).

1 states that have examined the public interest independently and have concluded that  
2 commercial mobile radio service (CMRS) providers should be limited or denied ETC  
3 designation. It is interesting to note that among the states mentioned by Mr. Krajci is  
4 Kansas. In that state, the Commission Staff recently asked the Kansas State Corporation  
5 Commission to reopen a docket approving ETC status for certain services offered by  
6 Western Wireless, and to determine whether Western Wireless' ETC status in that state  
7 should be revoked. The Commission Staff contends that the Kansas Commission did not  
8 grant Western Wireless "unrestricted" designation as an ETC, and that Western Wireless  
9 is unlawfully receiving federal universal service funds for its conventional CMRS  
10 services. Mr. Krajci also fails to mention Utah, which has denied an ETC application on  
11 public interest grounds, and Vermont, which cited public interest considerations in  
12 placing significant conditions on a carrier seeking designation as an ETC.

13  
14 **Q: On page 8, lines 13-16, Mr. Krajci suggests that this Commission should designate**  
15 **ALLTEL as an ETC so that "citizens of South Carolina can enjoy the same**  
16 **competitive benefits" that consumers in other states enjoy. Do you agree with Mr.**  
17 **Krajci's suggestion?**

18 **A:** No. ALLTEL has not provided any evidence in this proceeding that competitive benefits  
19 in South Carolina would be enhanced through its ETC designation. In my Direct  
20 Testimony, I provided evidence that there is already a robust level of wireless activity in  
21 the state.<sup>4</sup> Additional evidence can be found in the FCC's 2003 annual report on

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<sup>4</sup> See Exhibit DDM-06.

1 competitive market conditions for CMRS services. In that order, the FCC found:

2 "Regarding rural areas specifically, we also conclude that CMRS providers are  
3 competing effectively in such areas."<sup>5</sup>

4  
5 Mr. Krajci admits that competitive benefits are already present in South Carolina (page 9,  
6 line 10). He offers no further public interest justification for granting ALLTEL's  
7 application other than the vague and unsupported proposition that it will "enhance" these  
8 benefits. The Commission should deny ALLTEL's petition unless and until ALLTEL  
9 provides detail as to what enhancements this Commission can expect from ALLTEL in,  
10 but not limited to, service options, service coverage and service quality. Currently,  
11 ALLTEL seeks ETC support for existing service options, existing service coverage and  
12 existing service quality with no specifics as to what enhancements it would provide in the  
13 marketplace.

14  
15 **Q: Mr. Krajci disagrees with the Fifth Circuit Court of Appeals quotes you provided in**  
16 **your testimony. Do you wish to comment?**

17 **A:** Yes. Mr. Krajci is correct when he states that this Commission cannot impose  
18 requirements that are contrary to federal law. However, this does not mean the states are  
19 limited to placing conditions only with respect to "service quality standards" as suggested  
20 by Mr. Krajci.

21  
<sup>5</sup> *Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services*, FCC 03-150, WT Docket No. 02-379 (released July 14, 2003), at p. 9, para. 13.

1 I recommend that the Commission adopt a public policy that is consistent with all  
2 provisions of the Act and satisfies the public interest of South Carolina. For example, I  
3 recommended in my Direct Testimony that if ALLTEL is granted ETC designation, the  
4 Commission require unlimited local calling on all CMRS phones receiving federal  
5 universal service support.

6  
7 **Q: Would you like to respond to Mr. Krajci's assertion that the OPASTCO exhibit**  
8 **"provides no information relevant to this proceeding?"**

9 **A:** Yes. I respectfully disagree with Mr. Krajci regarding the value of the OPASTCO  
10 exhibit. In this exhibit there are specific recommendations for the FCC and state  
11 commissions to adopt in determining public interest of ETC petitions. I believe that the  
12 OPASTCO exhibit is of significant value in this proceeding as this Commission  
13 undertakes the responsibility of evaluating the public interest in South Carolina.

14  
15 Mr. Krajci would like the Commission to adopt the premise that competition is in the  
16 public interest and therefore ALLTEL should be granted its petition. The ALLTEL  
17 position is not in the public interest because it does not consider the public costs or  
18 quantify the public benefits from designating an additional ETC in a rural area.  
19 Furthermore, as expressed in my Direct Testimony, the ALLTEL position is inconsistent  
20 with a plain English reading of the statute that requires a separate public interest  
21 determination -- beyond the mere existence of competition in an area -- prior to  
22 designating a second ETC in an area served by a rural telephone company.

Surrebuttal Testimony of Douglas Duncan Meredith  
Public Service Commission of South Carolina  
Docket No. 2003-151-C  
September 8, 2003  
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2   **Q:    Does this conclude your surrebuttal testimony?**

3   **A:    Yes.**